

AMENDED IN SENATE JANUARY 7, 2002

AMENDED IN SENATE MARCH 26, 2001

SENATE BILL

No. 500

Introduced by Senators Torlakson, Machado, and Perata
(Coauthor: Assembly Member Aroner)

February 22, 2001

An act to ~~add Section 743.2 to the Public Utilities Code, relating to public~~ amend Section 1722 of the Civil Code, relating to utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 500, as amended, Torlakson. ~~Public utilities: rates: involuntary electric service interruptions~~ *Utilities and cable television: service and repair: times.*

Existing law requires that utilities and cable television companies inform subscribers of their right to service connection or repair within a 4-hour period, as specified, by offering the 4-hour period when the subscriber calls for service connection or repair, or by notifying their subscribers by mail three times a year of this service. Existing law further requires that when a subscriber contracts with utilities and cable television companies for a service connection or repair at a later date, and the parties agree that the presence of the subscriber is required, the utilities and cable television companies shall specify, prior to the date of service connection or repair, the time the 4-hour period for the service connection or repair begins, if the subscriber so requests.

The bill would delete the option of notification of subscribers by mail thereby requiring utilities and cable television companies to inform subscribers of their right to service connection or repair within a 4-hour period, under the circumstances described above, when the subscriber

calls for service connection or repair. This bill would also require utilities and cable television companies to specify the 4-hour period for the service connection or repair under the circumstance described above, regardless of whether the subscriber requests it.

~~The Public Utilities Act requires the creation and operation of an Independent System Operator to ensure efficient use and reliable operation of the state's electricity transmission grid consistent with achievement of specified planning and operating reserve criteria. A violation of the act is a crime.~~

~~This bill would require that a consumer of electricity located within close proximity, as defined, of an electric power generation facility receive a discount of 20% on electricity rates and be exempt from involuntary electric service interruptions during any state of emergency declared by the Independent Service Operator, if the facility (1) was licensed by the State Energy Resources Conservation and Development Commission on or after January 1, 1999, and (2) is capable of producing 50 megawatts or more.~~

~~Since a violation of the bill's prohibition would be a crime under existing law, this bill would impose a state-mandated local program by changing the definition of a crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 743.2 is added to the Public Utilities~~
- 2 ~~Code, to read:~~
- 3 ~~743.2. A consumer of electricity located within close~~
- 4 ~~proximity of an electric power generation facility shall receive a~~
- 5 ~~discount of 20 percent on electricity rates and shall be exempt from~~
- 6 ~~involuntary electric service interruptions during any state of~~
- 7 ~~emergency declared by the Independent Service Operator, if the~~
- 8 ~~facility meets the criteria set forth in subdivisions (a) and (b). For~~

1 ~~the purposes of this section, “close proximity” means a circle with~~
2 ~~a circumference of 20 miles with the facility at its center.~~

3 ~~(a) The facility was licensed by the State Energy Resources~~
4 ~~Conservation and Development Commission on or after January~~
5 ~~1, 1999.~~

6 ~~(b) The facility is capable of producing 50 megawatts or more.~~

7 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
8 ~~Section 6 of Article XIII B of the California Constitution because~~
9 ~~the only costs that may be incurred by a local agency or school~~
10 ~~district will be incurred because this act creates a new crime or~~
11 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
12 ~~for a crime or infraction, within the meaning of Section 17556 of~~
13 ~~the Government Code, or changes the definition of a crime within~~
14 ~~the meaning of Section 6 of Article XIII B of the California~~
15 ~~Constitution.~~

16 *SECTION 1. Section 1722 of the Civil Code is amended to*
17 *read:*

18 1722. (a) (1) Whenever a contract is entered into between a
19 consumer and a retailer with 25 or more employees relating to the
20 sale of merchandise which is to be delivered by the retailer or the
21 retailer’s agent to the consumer at a later date, and the parties have
22 agreed that the presence of the consumer is required at the time of
23 delivery, the retailer shall specify either at the time of the sale or
24 at a later date prior to the delivery date, a four-hour time period
25 within which any delivery shall be made. Whenever a contract is
26 entered into between a consumer and a retailer with 25 or more
27 employees for service or repair of merchandise, whether or not the
28 merchandise was sold by the retailer to the consumer, and the
29 parties have agreed that the presence of the consumer is required
30 at the time of service or repair, upon receipt of a request for service
31 or repair under the contract, the retailer shall specify, prior to the
32 date of service or repair, a four-hour period within which the
33 service or repair shall be commenced. Once a delivery, service, or
34 repair time is established, the retailer or the retailer’s agent shall
35 deliver the merchandise to the consumer, or commence service or
36 repair of the merchandise, within that four-hour period.

37 (2) If the merchandise is not delivered, or service or repair are
38 not commenced, within the specified four-hour period, except for
39 delays caused by unforeseen or unavoidable occurrences beyond
40 the control of the retailer, the consumer may bring an action in

1 small claims court against the retailer for lost wages, expenses
2 actually incurred, or other actual damages not exceeding a total of
3 five hundred dollars (\$500).

4 (3) No action shall be considered valid if the consumer was not
5 present at the time, within the specified period, when the retailer
6 or the retailer's agent attempted to make the delivery, service, or
7 repairs or made a diligent attempt to notify the consumer of its
8 inability to do so because of unforeseen or unavoidable
9 occurrences beyond its control.

10 (4) In any small claims action, logs and other business records
11 maintained by the retailer or the retailer's agent in the ordinary
12 course of business shall be prima facie evidence of the time period
13 specified for the delivery, service, or repairs and of the time when
14 the merchandise was delivered, or of a diligent attempt by the
15 retailer or the retailer's agent to notify the consumer of delay
16 caused by unforeseen or unavoidable occurrences.

17 (5) It shall be a defense to the action if a diligent attempt was
18 made to notify the consumer of the delay caused by unforeseen or
19 unavoidable occurrences beyond the control of the retailer or the
20 retailer's agent, or the retailer or the retailer's agent was unable to
21 notify the consumer of the delay because of the consumer's
22 absence or unavailability during the four-hour period, and, in
23 either instance, the retailer or the retailer's agent makes the
24 delivery, service, or repairs within two hours of a newly agreed
25 upon time or, if the consumer unreasonably declines to arrange a
26 new time for the delivery, service, or repairs.

27 (b) (1) Cable television companies shall inform their
28 subscribers of their right to service connection or repair within a
29 four-hour period, if the presence of the subscriber is required, by
30 offering the four-hour period at the time the subscriber calls for
31 service connection or repair, ~~or by notifying their subscribers by~~
32 ~~mail three times a year of this service.~~ Whenever a subscriber
33 contracts with a cable television company for a service connection
34 or repair which is to take place at a later date, and the parties have
35 agreed that the presence of the subscriber is required, the cable
36 company shall specify, prior to the date of service connection or
37 repair, the time for the commencement of the four-hour period for
38 the service connection or repair ~~if the subscriber requests.~~

39 (2) If the service connection or repair is not commenced within
40 the specified four-hour period, except for delays caused by

1 unforeseen or unavoidable occurrences beyond the control of the
2 company, the subscriber may bring an action in small claims court
3 against the company for lost wages, expenses actually incurred or
4 other actual damages not exceeding a total of five hundred dollars
5 (\$500).

6 (3) No action shall be considered valid if the subscriber was not
7 present at the time, within the specified period, that the company
8 attempted to make the service connection or repair.

9 (4) In any small claims action, logs and other business records
10 maintained by the company or its agents in the ordinary course of
11 business shall be prima facie evidence of the time period specified
12 for the commencement of the service connection or repair and the
13 time that the company or its agents attempted to make the service
14 connection or repair, or of a diligent attempt by the company to
15 notify the subscriber of a delay caused by unforeseen or
16 unavoidable occurrences.

17 (5) It shall be a defense to the action if a diligent attempt was
18 made to notify the subscriber of delay caused by unforeseen or
19 unavoidable occurrences beyond the control of the company or its
20 agents, or the company or its agents were unable to notify the
21 subscriber because of the subscriber's absence or unavailability
22 during the four-hour period, and, in either instance, the cable
23 television company commenced service or repairs within a newly
24 agreed upon two-hour period.

25 (6) No action shall be considered valid against a cable
26 television company pursuant to this section when the franchise or
27 any local ordinance provides the subscriber with a remedy for a
28 delay in commencement of a service connection or repair and the
29 subscriber has elected to pursue that remedy. If a subscriber elects
30 to pursue his or her remedies against a cable television company
31 under this section, the franchising or state or local licensing
32 authority shall be barred from imposing any fine, penalty, or other
33 sanction against the company, arising out of the same incident.

34 (c) (1) Utilities shall inform their subscribers of their right to
35 service connection or repair within a four-hour period, if the
36 presence of the subscriber is required, by offering the four-hour
37 period at the time the subscriber calls for service connection or
38 repair, ~~or by notifying the subscriber by mail three times a year of~~
39 ~~this service.~~ Whenever a subscriber contracts with the utility for
40 a service connection or repair, and the parties have agreed that the

1 presence of the subscriber is required, the utility shall specify, prior
2 to the date of service connection or repair, the time for the
3 commencement of the four-hour period for the service connection
4 or repair ~~if the subscriber requests~~.

5 (2) If the service connection or repair is not commenced within
6 the specified four-hour period, except for delays caused by
7 unforeseen or unavoidable circumstances beyond the control of
8 the utility, the subscriber may bring an action in small claims court
9 against the utility for lost wages, expenses actually incurred, or
10 other actual damages not exceeding a total of five hundred dollars
11 (\$500).

12 (3) No action shall be considered valid if the subscriber was not
13 present at the time, within the specified period, that the utility
14 attempted to make the service connection or repair.

15 (4) In any small claims action, logs and other business records
16 maintained by the utility or its agents in the ordinary course of
17 business shall be prima facie evidence of the time period specified
18 for the commencement of the service connection or repair and of
19 the time that the utility attempted to make the service connection
20 or repair, or of a diligent attempt by a utility to notify the subscriber
21 of delay caused by unforeseen or unavoidable occurrences.

22 (5) It shall be a defense to the action if a diligent attempt was
23 made by the utility to notify the subscriber of delay caused by
24 unforeseen or unavoidable occurrences beyond the control of the
25 utility, and the utility commenced service within a newly agreed
26 upon two-hour period.

27 (d) Any provision of a delivery, service, or repair contract in
28 which the consumer or subscriber agrees to modify or waive any
29 of the rights afforded by this section shall be void as contrary to
30 public policy.

